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7 FLORINDA IZAZAGA CARDENAS,  
8 Plaintiff,  
9 v.  
10 CALIFORNIA FORENSIC MEDICAL  
11 GROUP, INC., et al.,  
12 Defendants.

Case No. 24-cv-04248-DMR

**ORDER GRANTING DEFENDANT  
CALIFORNIA FORENSIC MEDICAL  
GROUP, INC.'S MOTION TO DISMISS  
PLAINTIFF'S THIRD AMENDED  
COMPLAINT**

Re: Dkt. No. 62

13 Defendant California Forensic Medical Group, Inc. ("CFMG") moves to dismiss Plaintiff  
14 Florinda Izazaga Cardenas' Third Amended Complaint ("TAC") pursuant to Federal Rule of Civil  
15 Procedure 12(b)(6). [Docket No. 62 (Mot.); *see* Docket No. 61 (TAC).] Plaintiff filed an opposition  
16 (Docket No. 67 (Opp'n)), and CFMG filed a reply (Docket No. 68 (Reply)). Pursuant to Civil Local  
17 Rule 7-1(b), the court finds this matter suitable for disposition without oral argument and vacates  
18 the December 11, 2025 hearing.

19 Having considered the parties' arguments, the relevant legal authority, and the record in this  
20 case, the court grants CFMG's motion.

21 **I. BACKGROUND**

22 **A. Allegations in the TAC<sup>1</sup>**

23 Plaintiff is the biological mother of Daniel Rivera Izazaga ("Izazaga" or "Decedent"), an  
24 adult who died intestate and unmarried. TAC ¶¶ 5, 6. On August 15, 2023, Mr. Izazaga was arrested  
25 and taken into custody at the Napa County Sheriff's Office at the Napa County Jail, where he

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27 <sup>1</sup> When reviewing a motion to dismiss for failure to state a claim, the court must "accept as true all  
28 of the factual allegations contained in the complaint." *Erickson v. Pardus*, 551 U.S. 89, 94 (2007)  
(per curiam) (citation omitted).

1 remained for three months. *Id.* ¶¶ 1, 12. While in custody, Mr. Izazaga complained to medical staff  
2 that he was frustrated with being held in jail; jail staff were picking on him, including by punishing  
3 him for small issues over which he had no control or was not involved; and he was losing the will  
4 to live. *Id.* ¶ 13.

5 Pursuant to a contract with the County of Napa, CFMG provided psychiatric care to prisoners  
6 and detainees in Napa County jails. *Id.* ¶ 7. CFMG is responsible for enforcing policies, procedures,  
7 and training related to the medical care of prisoners and detainees in the County of Napa jails. *Id.*  
8 In response to Mr. Izazaga's complaints and in light of his suicidal ideations, CFMG and Wellpath,  
9 LLC<sup>2</sup> medical staff diagnosed Mr. Izazaga with depression.<sup>3</sup> *Id.* ¶ 13.

10 After repeated express suicidal ideations, Does 1–25 placed Mr. Izazaga in solitary  
11 confinement as punishment for small issues. *Id.* ¶ 14. While in solitary confinement, and after  
12 having been diagnosed with depression, Mr. Izazaga continued to express to jail staff his frustration,  
13 increasing depression, and lack of will to live. *Id.* Does 1–25 did nothing to intervene, did not  
14 report his suicidal ideations, and did not take precautions to prevent Mr. Izazaga from acting on his  
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16 <sup>2</sup> As explained below, Wellpath is no longer a party to this action, and the TAC does not clearly  
17 allege Wellpath's role in the events at issue. Plaintiff's prior second amended complaint alleged  
that,

18 [o]n information and belief, Defendant WELLPATH is engaged in a  
19 management service agreement with Defendant CFMG in which  
Defendant WELLPATH dictates Defendant CFMG's policies and  
procedures. Furthermore, on information and belief, Defendant  
WELLPATH maintains exclusive control over Defendant CFMG's  
staffing and employment decisions. Defendant WELLPATH is thus a  
managing agent of Defendant CFMG. On information and belief,  
Defendant WELLPATH and its employees and agents are responsible  
for making policies, procedures, and training, as well as hiring the  
appropriate staff, for detention facilities in which Defendant CFMG  
provides medical care, including but not limited to County of Napa  
jails.

24 [Docket No. 31 ¶ 8.]

25 The TAC also interchangeably capitalizes "WellPath" and "Wellpath." See, e.g., TAC ¶¶ 8, 13.  
26 Consistent with Wellpath's statement (Docket No. 80), the court uses "Wellpath" here.

27 <sup>3</sup> The TAC alleges that, "[i]n response, CFMG & WellPath medical staff diagnosed Plaintiff with  
depression due to his suicidal ideations." *Id.* ¶ 13 (emphasis added). The court assumes that  
28 Mr. Izazaga was diagnosed with depression, not Plaintiff.

1 suicidal ideations. *Id.*

2 Napa County Jail is equipped with safety cells that are designed to prevent inmates  
3 expressing suicidal ideations from acting on them. *Id.* ¶ 15. Per Napa County Jail policy, these  
4 safety cells are used and observations increased to ensure that suicidal inmates are kept safe. *Id.*  
5 Plaintiff alleges, on information and belief, that the solitary confinement cell in which Mr. Izazaga  
6 was held was located in general population and was not a safety cell. *Id.*

7 On October 15, 2023, Mr. Izazaga hung himself in his cell. *Id.* Mr. Izazaga was rushed to  
8 Queen of the Valley Medical Center in Napa, California and was placed on life support. *Id.* ¶ 16.  
9 He was taken off life support and passed away on October 24, 2023. *Id.*

10 Plaintiff alleges, on information and belief, that Mr. Izazaga would not have had access to  
11 the materials required to hang himself but for the Doe Defendants' decision to house him in general  
12 population and not to place him under the highest level of medical supervision. *Id.* ¶ 17. After his  
13 death, Plaintiff and her family attempted to get information from the County of Napa regarding his  
14 detention and passing. *Id.* ¶ 18. They were "repeatedly stonewalled" and told that they would need  
15 to hire a lawyer to obtain any such information. *Id.*

#### 16       **B. Procedural History**

17 Plaintiff filed her initial complaint on July 15, 2024. [See Docket No. 1.] The complaint  
18 named as Defendants the County of Napa (the "County") and Does 1–50, employees of the County  
19 whose true names and/or capacities were unknown to Plaintiff. *Id.* ¶¶ 8–9.

20 Plaintiff asserted five claims for relief: (1) a 42 U.S.C. § 1983 claim for deliberate  
21 indifference to Mr. Izazaga's serious medical needs while in custody in violation of the Fourteenth  
22 Amendment, by Plaintiff as successor-in-interest to Mr. Izazaga against Does 1–50; (2) a § 1983  
23 claim for violation of Plaintiff's right to familial association based upon the Fourteenth Amendment,  
24 by Plaintiff individually against Does 1–50; (3) negligence and wrongful death, by Plaintiff  
25 individually and as successor-in-interest against Does 1–50 and the County; (4) violation of the  
26 Bane Act, Cal. Civ. Code § 52.1, by Plaintiff individually against Does 1–50 and the County; and  
27 (5) violation of California Government Code section 845.6, by Plaintiff individually and as  
28 successor-in-interest against Does 1–50 and the County. *Id.* ¶¶ 22–48.

1       On August 23, 2024, Plaintiff filed a first amended complaint (“FAC”), which continued to  
2 name the County and Does 1–50 as defendants. [Docket No. 12 (FAC).] The FAC dropped the  
3 wrongful death claim but otherwise asserted the same claims against the same Defendants as the  
4 initial complaint. *Id.* ¶¶ 24–50.

5       The County moved to dismiss the negligence, Bane Act, and section 845.6 claims pursuant  
6 to Rule 12(b)(6). [Docket No. 14.] The court denied the motion as to the Bane Act claim, but  
7 dismissed Plaintiff’s individual section 845.6 claim with prejudice, dismissed the section 845.6  
8 claim by Plaintiff as successor-in-interest with leave to amend, and dismissed Plaintiff’s successor-  
9 in-interest negligence claims based upon violation of section 845.6 and deliberate indifference to  
10 Mr. Izazaga’s serious medical need with leave to amend. [Docket No. 24 at 8–9.]

11       On December 12, 2024, Plaintiff filed her second amended complaint (“SAC”). [Docket  
12 No. 31 (SAC).] The SAC dropped the County, named for the first time Wellpath and CFMG as  
13 Defendants, and identified Does 1–50 as “employees of the County of Napa, Defendant  
14 WELLPATH, and/or Defendant CFMG.” *Id.* ¶¶ 7–9. The SAC asserted two claims: (1) a § 1983  
15 claim for deliberate indifference to Mr. Izazaga’s serious medical needs while in custody in violation  
16 of the Fourteenth Amendment, by Plaintiff as successor-in-interest to Mr. Izazaga against Does 1–  
17 50; and (2) negligence against Does 1–50, Wellpath, and CFMG by Plaintiff individually and as  
18 successor-in-interest to Mr. Izazaga. *Id.* ¶¶ 22–32.

19       On February 13, 2025, Wellpath and CFMG filed a Suggestion of Bankruptcy and Notice of  
20 Stay, which stated that, on November 11, 2024, Wellpath Holdings, LLC had filed for chapter 11  
21 bankruptcy in the United States Bankruptcy Court for the Southern District of Texas. [Docket  
22 No. 38; *see In re Wellpath Holdings, Inc.*, Case No. 24-90533 (ARP) (S.D. Tex.).] On January 14,  
23 2025, the Bankruptcy Court extended the automatic stays, the effect of which meant that “all parties  
24 [we]re stayed from any further continuation of these proceedings until such time as the Bankruptcy  
25 Court may order otherwise.” [Docket No. 38 at 5.] On February 18, 2025, in light of the Bankruptcy  
26 Court’s order, the court stayed the case in its entirety and ordered the parties to file a status report  
27 within 30 days of the close of bankruptcy proceedings or earlier if permitted by the Bankruptcy  
28 Court. [Docket No. 39.]

1       In a June 5, 2025 filing, Plaintiff and CFMG informed the court that the automatic stays  
2 against CFMG and Wellpath LLC had expired and requested that the court lift the stay in this action.  
3 [Docket No. 43.] The court thus lifted the stay and scheduled a case management conference for  
4 August 20, 2025. [Docket Nos. 44, 45.]

5       In response to the court's order to file a status report, Plaintiff stated that it intended to  
6 dismiss Wellpath and continue the litigation against CFMG and the Doe Defendants. [Docket  
7 No. 50.] On August 25, 2025, the parties stipulated to allow Plaintiff to file a third amended  
8 complaint that replaced Wellpath with Nominal Defendant Matthew J. Dundon as Trustee of the  
9 Wellpath Liquidating Trust. [Docket No. 57.] The court granted the stipulation, and, on  
10 September 2, 2025, Plaintiff filed the operative TAC. [Docket Nos. 58–61.]

11       The TAC asserts two claims: (1) a § 1983 claim for deliberate indifference to Mr. Izazaga's  
12 serious medical needs while in custody in violation of the Fourteenth Amendment, by Plaintiff as  
13 successor-in-interest to Mr. Izazaga against Does 1–50; and (2) negligence by Plaintiff, individually  
14 and as successor-in-interest to Mr. Izazaga, against Does 1–50, Dundon, and CFMG. *Id.* ¶¶ 22–32.

15       **II.     LEGAL STANDARD**

16       A motion to dismiss under Rule 12(b)(6) tests the legal sufficiency of the claims alleged in  
17 the complaint. *See Parks Sch. of Bus., Inc. v. Symington*, 51 F.3d 1480, 1484 (9th Cir. 1995). When  
18 reviewing a motion to dismiss for failure to state a claim, the court must “accept as true all of the  
19 factual allegations contained in the complaint,” *Erickson*, 551 U.S. at 94, and may dismiss a claim  
20 “only where there is no cognizable legal theory” or there is an absence of “sufficient factual matter  
21 to state a facially plausible claim to relief,” *Shroyer v. New Cingular Wireless Servs., Inc.*, 622  
22 F.3d 1035, 1041 (9th Cir. 2010) (citing *Ashcroft v. Iqbal*, 556 U.S. 662, 677–78 (2009); *Navarro v.*  
23 *Block*, 250 F.3d 729, 732 (9th Cir. 2001)) (internal quotation marks omitted). A claim has facial  
24 plausibility when a plaintiff “pleads factual content that allows the court to draw the reasonable  
25 inference that the defendant is liable for the misconduct alleged.” *Iqbal*, 556 U.S. at 678 (citation  
26 omitted). In other words, the facts alleged must demonstrate “more than labels and conclusions,  
27 and a formulaic recitation of the elements of a cause of action will not do.” *Bell Atl. Corp. v.*  
28 *Twombly*, 550 U.S. 554, 555 (2007).

Under Federal Rule of Civil Procedure 15(a)(1), leave to amend should be granted as a matter of course, at least until the defendant files a responsive pleading. After that point, Rule 15(a) provides generally that leave to amend the pleadings before trial should be given “freely . . . when justice so requires.” Fed. R. Civ. P. 15(a)(2). “This policy is to be applied with extreme liberality.” *Eminence Cap., LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1051 (9th Cir. 2003) (cleaned up). However, leave to amend may be denied where the complaint “could not be saved by any amendment,” i.e., “where the amendment would be futile.” *Thinket Ink Info. Res., Inc. v. Sun Microsystems, Inc.*, 368 F.3d 1053, 1061 (9th Cir. 2004) (cleaned up).

### **III. ANALYSIS**

CFMG moves to dismiss both claims on grounds that they are time barred and because the TAC fails to state a claim.

#### **A. Statute of Limitations**

CFMG argues that the one-year statute of limitations in California’s Medical Injury Compensation Reform Act (“MICRA”) applies to, and thus bars, each of Plaintiff’s claims. Mot. at 9–12; *see* Cal. Civ. Proc. Code § 340.5. Plaintiff contends that the claims are timely, as they are governed by California’s two-year limitations period for personal injury actions. Opp’n at 4–6.

“In 1975, the Legislature enacted MICRA which, among other things, revised a number of legal rules applicable to professional negligence actions against health care providers.” *Coe v. Superior Ct.*, 220 Cal. App. 3d 48, 50 (1990). MICRA provides that, “[i]n an action for injury or death against a health care provider based upon such person’s alleged professional negligence, the time for the commencement of action shall be three years after the date of injury or one year after the plaintiff discovers, or through the use of reasonable diligence should have discovered, the injury, whichever occurs first.” Cal. Civ. Proc. Code § 340.5.

“Where the plaintiff’s claim is premised on the violation of a professional obligation owed in the rendering of a patient’s medical care, treatment, or diagnoses, the claim sounds in professional negligence and the MICRA statute of limitations will apply.” *Gutierrez v. Tostado*, 18 Cal. 5th 222, 238 (2025); *see Flores v. Presbyterian Intercommunity Hosp.*, 63 Cal. 4th 75, 88 (2016) (MICRA’s “special statute of limitations for professional negligence actions against health care providers

1 applies only to actions alleging injury suffered as a result of negligence in rendering the professional  
2 services that hospitals and others provide by virtue of being health care professionals: that is, the  
3 provision of medical care to patients.”). “Where, in contrast, the alleged negligence does not  
4 implicate a specific professional obligation along the foregoing lines and violates only the duty of  
5 ordinary care owed to the general public, the claim does not involve professional negligence and the  
6 MICRA statute of limitations is inapplicable.” *Gutierrez*, 18 Cal. 5th at 238.

7 **1. Section 1983 Claim**

8 MICRA’s statute of limitations does not apply to Plaintiff’s § 1983 claim based on deliberate  
9 indifference to Mr. Izazaga’s Fourteenth Amendment rights, as MICRA “does not apply in whole  
10 or in part to federal civil rights actions.” *Ellis v. City of San Diego, California*, 176 F.3d 1183, 1186  
11 (9th Cir. 1999), *as amended on denial of reh’g* (June 23, 1999); *see Hudacko v. Regents of Univ. of*  
12 *California*, No. 23-CV-05316-SI, 2024 WL 3908113, at \*10 (N.D. Cal. Aug. 20, 2024), *aff’d*, No.  
13 24-7360, 2025 WL 2965766 (9th Cir. Oct. 21, 2025) (“With respect to the federal claims, the Ninth  
14 Circuit has also held that claims for violations of federal constitutional rights pursuant to 42 U.S.C.  
15 § 1983 are not subject to MICRA.”) (citing *Ellis*, 176 F.3d at 1191); *Wilson v. Tuolumne Cnty.*, No.  
16 21-CV-00196-KES-SKO (PC), 2025 WL 2324115, at \*4 (E.D. Cal. Aug. 12, 2025), *report and*  
17 *recommendation vacated on other grounds*, No. 21-CV-00196-KES-SKO (PC), 2025 WL 2495590  
18 (E.D. Cal. Aug. 29, 2025) (“Additionally, the Court notes that section 340.5, California’s Medical  
19 Injury Compensation Reform Act (MICRA), has no application to suits for violations of federal  
20 constitutional rights pursuant to section 1983.”) (citing *Ellis*, 176 F.3d at 1191).

21 CFMG argues that “*Ellis* does not stand for the proposition that § 340.5 cannot be applied  
22 to a medical malpractice claim under § 1983; rather, it holds that § 340.5 does not ‘protect’ those  
23 who ‘assum[e] . . . the function of a law enforcement official.’” Reply at 2 (quoting *Ellis*, 176 F.3d  
24 at 1191). In *Ellis*, the plaintiff was arrested and transported to a hospital, where he “protested that  
25 he would not consent to any tests” and, after struggling, was “forcefully restrained . . . and tied . . .  
26 to [a] table.” 176 F.3d at 1187. The plaintiff was tranquilized and, upon waking, “his arms were  
27 ‘sore and had blood spots on them where the medical persons had taken his blood’” and his “pants  
28 and underpants were pulled down to his ankles and there was tubing in his penis, which had been

1 inserted by Dr. Karen Van Hoesen . . . while he was sedated.” *Id.*

2 In holding that MICRA did not apply, the Ninth Circuit explained that “[t]he relevant  
3 distinction . . . lies in the purpose for which the procedure is performed.” *Id.* at 1190. In *Ellis*, the  
4 plaintiff’s “complaint allege[d] that Van Hoesen acted in an entirely different capacity—that of a law  
5 enforcement agent looking for evidence of a crime” such that Van Hoesen was “more like a police  
6 agent than a doctor.” *Id.* In other words, the plaintiff “su[ed] Van Hoesen not for incorrectly  
7 inserting the catheter or needle while treating him, but for searching his bladder and bloodstream  
8 without a warrant or probable cause, and for using excessive force while doing so. Van Hoesen  
9 [wa]s therefore not being sued for the manner in which she performed *medical services or treatment*,  
10 but because of her assumption of the function of a law enforcement official; MICRA does not protect  
11 her with respect to the latter form of conduct.” *Id.* at 1191 (emphasis in the original). The *Ellis*  
12 court went on to broadly hold that “MICRA simply has no application to suits for violations of  
13 federal constitutional rights pursuant to 42 U.S.C. § 1983.” *Ellis*, 176 F.3d at 1191.

14 District courts have since followed *Ellis* to find that MICRA does not apply to federal civil  
15 rights claims generally. *See, e.g., Hudacko*, 2024 WL 3908113, at \*10; *Wilson*, 2025 WL 2324115,  
16 at \*4; *Gopen v. Regents of the Univ. of California*, No. SACV 15-2062 JVS (KESx), 2016 WL  
17 11745945, at \*2 (C.D. Cal. Aug. 2, 2016) (“[MICRA] does not apply in whole or in part to federal  
18 civil rights actions.’ . . . The ADA and the Rehab Act are both federal civil rights statutes. . . .  
19 MICRA’s noneconomic damages cap therefore does not apply to Gopen’s ADA and Rehab Act  
20 damages claims.”) (quoting *Ellis*, 176 F.3d at 1186; brackets in the original); *see also Estate of*  
21 *Lee v. California Dep’t of Corr. & Rehab.*, No. 20-cv-01161-JAM-CDK, 2021 WL 325676, at \*2  
22 (E.D. Cal. Feb. 1, 2021) (“First, § 340.5 applies to claims ‘against a health care provider based upon  
23 such person’s alleged professional negligence.’ . . . Plaintiff’s § 1983 claims are not based on  
24 Defendant’s professional negligence but rather on her deliberate indifference. . . . As such, § 340.5  
25 is inapplicable to this claim by its very terms.”) (emphasis in the original); *Parlin v. Sodhi*, No. CV  
26 10-6120 VBF MRW, 2011 WL 6740322, at \*3 (C.D. Cal. Nov. 17, 2011), *report and*  
27 *recommendation adopted*, No. CV 10-6120 VBF MRW, 2011 WL 6440574 (C.D. Cal. Dec. 21,  
28 2011) (rejecting argument that action was time-barred because it was not filed “within the one-year

1 time period governing tort claims against a health care provider under California Code of Civil  
2 Procedure section 340.5”; “federal civil rights actions under [42] U.S.C. § 1983 are governed by the  
3 state’s two-year general statute of limitations for personal injury actions under California Code of  
4 Civil Procedure section 335.1.”); *Townsend through Townsend v. Cnty. of Santa Cruz*, No. 19-CV-  
5 00630-BLF, 2021 WL 3913174, at \*12 (N.D. Cal. Sept. 1, 2021) (denying, on summary judgment,  
6 request to find MICRA’s damages cap applicable to § 1983 claim).

7 As in *Ellis*, Plaintiff’s § 1983 claim is based on a violation of Mr. Izazaga’s constitutional  
8 rights. See TAC ¶ 23 (“Defendants DOES 1–50 violated 42 U.S.C. §1983, depriving Decedent  
9 of . . . [t]he right to be free from deliberate indifference to Decedent’s serious medical needs while  
10 in custody as secured by the Fourteenth Amendment.”). This too makes MICRA inapplicable to the  
11 claim. See *Estate of Lee*, 2021 WL 325676, at \*2 (E.D. Cal. Feb. 1, 2021) (“Plaintiff’s § 1983  
12 claims are not based on Defendant’s professional negligence but rather on her deliberate indifference  
13 [to serious medical needs in violation of the Eighth Amendment]. . . . As such, § 340.5 is  
14 inapplicable to this claim by its very terms.”).

15 For these reasons, the court finds that Plaintiff’s § 1983 claim is governed by the two-year  
16 statute of limitations. See *Action Apartment Ass’n, Inc. v. Santa Monica Rent Control Bd.*, 509 F.3d  
17 1020, 1026 (9th Cir. 2007) (“It is well-established that claims brought under § 1983 borrow the  
18 forum state’s statute of limitations for personal injury claims . . . and in California, that limitations  
19 period is two years.”). Because Plaintiff initiated this action and named CFMG as a defendant  
20 within the two-year limitations period, the claim is timely.

21 **2. Negligence Claim**

22 **a. Application of MICRA**

23 CFMG argues that “the one-year statute of limitations that is established in § 340.5 overrides  
24 the two-year statute of limitations contemplated by § 335.1 when the allegation involves a healthcare  
25 provider” such as CFMG. Mot. at 10; see Cal. Civ. Proc. Code § 335.1 (“An action for . . . the death  
26 of[] an individual caused by the wrongful act or neglect of another” must be brought “[w]ithin two  
27 years[.]”). Plaintiff contends that her “negligence claim is *not* based on medical malpractice.”  
28 Opp’n at 6 (emphasis in the original). Rather, the “claim is based on the Doe Defendants’ deliberate

1 indifference to [Izazaga]’s serious medical needs.” *Id.*; *see id.* (“By acting with deliberate  
2 indifference, the Doe Defendants breached their general duty—applicable to medical and non-  
3 medical jail staff alike—to protect [Izazaga] from foreseeable harm.”).

4 “[W]hen a cause of action is asserted against a health care provider on a legal theory other  
5 than medical malpractice, the courts must determine whether it is nevertheless based on the  
6 ‘professional negligence’ of the health care provider so as to trigger MICRA.” *Smith v. Ben Bennett,*  
7 *Inc.*, 133 Cal. App. 4th 1507, 1514 (2005); *id.* (noting that “additional causes of action frequently  
8 arise out of the same facts as a medical malpractice cause of action.”). MICRA defines “professional  
9 negligence” as

10 a negligent act or omission to act by a health care provider in the  
11 rendering of professional services, which act or omission is the  
12 proximate cause of a personal injury or wrongful death, provided that  
13 such services are within the scope of services for which the provider  
14 is licensed and which are not within any restriction imposed by the  
15 licensing agency or licensed hospital.

16 Cal. Civ. Proc. Code § 340.5(2). “California Courts have broadly construed ‘professional  
17 negligence’ to mean negligence occurring during the rendering of services for which the health care  
18 provider is licensed.” *Lindsay v. Am. Red Cross*, No. 23-CV-05987-BLF, 2024 WL 2125614, at \*2  
(N.D. Cal. May 10, 2024) (citing *Canister v. Emergency Ambulance Serv., Inc.*, 160 Cal. App. 4th  
388, 406–07 (2008); *Flores*, 63 Cal. 4th at 84).

19 The TAC belies Plaintiff’s characterization of her claim as one of general negligence and  
20 not medical malpractice. The TAC alleges that CFMG provided professional services in the form  
21 of psychiatric care, and that the alleged misconduct occurred during the performance of those  
22 services. TAC ¶ 7 (“Defendant CFMG provided psychiatric care to prisoners and detainees in  
23 County of Napa jails, pursuant to contract with the County of Napa. On information and belief,  
24 CFMG and its employees and agents are responsible for enforcing policies, procedures, and training  
25 related to the medical care of prisoners and detainees in the County of Napa jails.”); *id.* ¶ 13 (“In  
26 response, CFMG & WellPath medical staff diagnosed [Mr. Izazaga] with depression due to his  
27 suicidal ideations.”); *id.* ¶ 14 (“Does 1–25 did nothing to intervene, did not report Decedent’s  
28 suicidal ideations or take precautions to prevent Decedent from acting on his suicidal ideations.”).

1 These allegations are sufficient to trigger the one-year statute of limitations set forth in  
2 section 340.5.

3 As Mr. Izazaga passed away on October 24, 2023 (TAC ¶ 16), the statute of limitations thus  
4 expired on October 24, 2024. Because Plaintiff named CFMG for the first time in the SAC, which  
5 was filed on December 12, 2024, the negligence claim is time-barred unless the claim relates back  
6 to a timely-filed complaint.

7 **b. Relation Back Doctrine**

8 Although Plaintiff initiated this action within one year of Mr. Izazaga's October 24, 2023  
9 passing, she did not name CFMG as a defendant until filing the SAC on December 12, 2024.  
10 Because MICRA's one-year limitations period applies, Plaintiff's negligence claim against CFMG  
11 is time-barred unless the SAC relates back to the July 15, 2024 initial complaint or the August 23,  
12 2024 FAC.

13 CFMG argues that the relation back doctrine cannot save the negligence claim. CFMG  
14 asserts that "by December 2024, the lawsuit and Plaintiff's ability to conduct discovery had been  
15 ongoing for almost 6 months." Mot. at 11. According to CFMG, "[i]f a complaint alleged to be  
16 based on provision of medical care at the Napa County Jail did not involve discovery into the  
17 medical provider at Napa County Jail until December 2024, after the statute of limitations had  
18 expired and after months of litigation, that was a 'fully informed decision' by Plaintiff's counsel."  
19 *Id.* (citing *Krupski v. Costa Crociere S.p.A.*, 560 U.S. 538, 552 (2010)). CFMG further argues that  
20 it "received no notice of intent to sue prior to October 15, 2024, meaning there are also no grounds  
21 for a potential 90-day extension of the statute of limitations under Cal. Civ. Proc. § 364(d)." *Id.*

22 Plaintiff expressly refused to argue the application of the relation back doctrine. Plaintiff  
23 states that, "[b]ecause Plaintiff's negligence claim is not based on medical malpractice and was  
24 timely alleged against Defendant CFMG within the two-year limitations period for personal injury  
25 actions, Plaintiff will not address the relation back doctrine under FRCP 15." Opp'n at 6 n.1  
26 (emphasis added.) Plaintiff's strategic decision to intentionally decline to address CFMG's relation  
27 back argument constitutes waiver. *See Reis v. McKinsey & Co., Inc.*, No. 25-CV-00393-LB, 2025  
28 WL 1809737, at \*3 n.16 (N.D. Cal. June 30, 2025) ("The failure to address an argument is a

concession of it.”) (citations omitted); *Diggs v. Marriott Hotel Servs., LLC*, No. 24-CV-6977 NC, 2024 WL 5151139, at \*1 (N.D. Cal. Nov. 7, 2024), *appeal dismissed*, No. 24-7231, 2024 WL 5442020 (9th Cir. Dec. 19, 2024) (“A party’s failure to meaningfully respond to an opposing party’s argument typically amounts to waiver, concession, or abandonment of any arguments in opposition.”) (citations omitted).

Accordingly, Plaintiff has waived the relation back doctrine. Because the SAC was filed more than one year after Mr. Izazaga’s death, the negligence claim is time-barred and dismissed without leave to amend.<sup>4</sup>

#### **B. Failure to State a § 1983 Claim**

CFMG argues that the TAC fails to state a § 1983 claim for two reasons. First, the TAC lacks any “allegations involving a failure to provide care, a delay in care, or anything close to the affirmatively culpable conduct required to sustain a deliberate indifference claim.” Mot. at 14. Second, CFMG contends that the TAC fails to allege any causation between the alleged misconduct by CFMG or CFMG employees and Mr. Izazaga’s suicide. *Id.* at 15.

“To state a claim under § 1983, a plaintiff must allege two essential elements: (1) that a right secured by the Constitution or laws of the United States was violated, and (2) that the alleged violation was committed by a person acting under the color of State law.” *Long v. Cnty. of Los Angeles*, 442 F.3d 1178, 1185 (9th Cir. 2006) (citation omitted). Furthermore, “to establish liability under Section 1983, a plaintiff must show that an individual defendant personally participated in the alleged constitutional violation.” *Williams v. City of Oakland*, No. 17-CV-05238-YGR, 2018 WL 3972323, at \*4 (N.D. Cal. Aug. 20, 2018) (citing *Avalos v. Baca*, 596 F.3d 583, 587 (9th Cir. 2010)). The Ninth Circuit has thus “rejected the ‘team effort’ standard that allows the jury to lump all the defendants together, rather than require it to base each individual’s liability on his own conduct.” *Hopkins v. Bonvicino*, 573 F.3d 752, 769–70 (9th Cir. 2009) (cleaned up).

In addition, “the elements of a pretrial detainee’s medical care claim against an individual defendant under the due process clause of the Fourteenth Amendment are: (i) the defendant made

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<sup>4</sup> Because the court finds the negligence claim is time-barred, it does not reach CFMG’s argument that the TAC fails to state such a claim. *See* Mot. at 15–17.

1 an intentional decision with respect to the conditions under which the plaintiff was confined; (ii)  
2 those conditions put the plaintiff at substantial risk of suffering serious harm; (iii) the defendant did  
3 not take reasonable available measures to abate that risk, even though a reasonable official in the  
4 circumstances would have appreciated the high degree of risk involved—making the consequences  
5 of the defendant’s conduct obvious; and (iv) by not taking such measures, the defendant caused the  
6 plaintiff’s injuries.” *Gordon v. Cnty. of Orange*, 888 F.3d 1118, 1125 (9th Cir. 2018).

7 The court finds that the TAC does not sufficiently allege that CFMG employees’ conduct  
8 led to Mr. Izazaga’s death. The TAC alleges that, “[a]fter repeated expressed suicidal ideations,  
9 Does 1–25 placed Decedent in solitary confinement for small issues in order to punish Decedent.”  
10 TAC ¶ 14. “While in solitary confinement and after already having received a diagnosis of  
11 depression for expressing suicidal ideations, Decedent continued to express to jail staff his  
12 frustration, increasing depression and lack of will . . . to live[,]” yet “Does 1–25 did nothing to  
13 intervene, did not report his suicidal ideations or take precautions to prevent Decedent from acting  
14 on his suicidal ideations.” *Id.*

15 These allegations impermissibly lump Defendants together, making it impossible to  
16 distinguish each Defendant’s role, if any, in the alleged misconduct. *See Russo v. Fed. Med. Servs., Inc.*, 744 F. Supp. 3d 914, 922 (N.D. Cal. 2024) (“Undifferentiated group pleading that does not  
17 ‘indicate which individual defendant or defendants were responsible for which wrongful act’ is  
18 impermissible under Rule 8 because it fails to provide such notice.”) (quoting *In re Sagent Tech., Inc., Derivative Litig.*, 278 F. Supp. 2d 1079, 1094 (N.D. Cal. 2003)); *Morris v. Sun Pharma Glob. Inc.*, No. 20-10441 PA (JPRx), 2021 WL 3913191, at \*3 (C.D. Cal. May 13, 2021) (“One common  
21 type of impermissible shotgun pleading comes in cases with multiple defendants where the plaintiff  
22 uses the omnibus term ‘Defendants’ throughout a complaint by grouping defendants together  
23 without identifying what the particular defendants specifically did wrong.”) (cleaned up).

25 For instance, it is unclear whether CFMG employees were involved in the decision to place  
26 Mr. Izazaga in solitary confinement, failed to report his suicidal ideations, and/or failed to take steps  
27 to prevent him from taking his life. There is no indication as to whether “Does 1–25”—notably a  
28 subset of the Does 1–50 who allegedly violated Mr. Izazaga’s Fourteenth Amendment rights—are

1 employees of the County of Napa, Wellpath, CFMG, or some combination thereof. *See TAC ¶ 9*  
2 (“Defendants DOES 1 through 50 are employees of the County of Napa, Defendant WELLPATH,  
3 and/or Defendant CFMG.”); *id.* ¶ 23 (“By the actions and omissions described above, Defendants  
4 DOES 1–50 violated 42 U.S.C. §1983 . . .”); *id.* ¶ 24 (“Defendants DOES 1–50 subjected Decedent  
5 to their wrongful conduct, depriving Decedent of rights described herein with reckless disregard for  
6 whether the rights and safety of Decedent would be violated by their acts and/or omissions.”).

7 It is also unclear whether Mr. Izazaga informed CFMG employees about his frustration,  
8 depression, and lack of will to live such that CFMG could take appropriate measures to prevent his  
9 death. While paragraph 14 of the TAC refers to “jail staff,” there is no indication that “jail staff”  
10 includes CFMG employees as opposed to County of Napa or Wellpath employees. Indeed, the TAC  
11 distinguishes between “jail staff” and “medical staff.” The TAC alleges that, “[d]uring Decedent’s  
12 time at the Napa County Jail, Decedent began to complain to *medical staff* that he was frustrated  
13 with being held in jail, that [*t*]he jail staff were picking on him, punishing him for small issues that  
14 he had no control over . . .” *Id.* ¶ 13 (emphasis added). If “medical staff” were the same as “jail  
15 staff,” Plaintiff presumably would have used the same term to describe them. That she did not  
16 suggests that “medical staff” is different from “jail staff.”

17 Plaintiff’s opposition cannot save the claim. Plaintiff argues that “Decedent was  
18 experiencing an ongoing psychiatric emergency while in custody, in which Decedent expressed to  
19 *jail medical staff* that he was losing the will to live” and that “the *Doe Defendant CFMG employees*  
20 ignored Decedent’s suicidal ideations, refrained from alerting County jail personnel that Decedent  
21 posed a serious risk of suicide, refused to put Decedent in a safety cell, and failed to put Decedent  
22 under heightened observation.” Opp’n at 12 (emphasis added). The TAC, however, is not so  
23 specific. The TAC identifies “jail staff” generally, not “jail medical staff,” and “Does 1–25,” not  
24 “Doe Defendant CFMG employees.” Compare TAC ¶ 14 with Opp’n at 12. Plaintiff cannot attempt  
25 to rewrite the TAC’s allegations through her opposition. *See Heineke v. Santa Clara Univ.*, No. 17-  
26 CV-05285-LHK, 2017 WL 6026248, at \*16 (N.D. Cal. Dec. 5, 2017) (“[T]he complaint may not  
27 be amended by briefs in opposition to a motion to dismiss.”) (quoting *Tietsworth v. Sears*, 720 F.  
28 Supp. 2d 1123, 1145 (N.D. Cal. 2010)).

The court dismisses Plaintiff's § 1983 claim. As it is not readily apparent that amendment would be futile, the dismissal is with leave to amend.

## IV. CONCLUSION

For the foregoing reasons, the court dismisses Plaintiff's § 1983 claim with leave to amend and dismisses the negligence claim without leave to amend. Plaintiff's amended complaint, if any, shall be filed by December 19, 2025.

## **IT IS SO ORDERED.**

Dated: December 5, 2025

*Dorothy*  
M.D.

 Donna M. Ryu  
Chief Magistrate Judge

United States District Court  
Northern District of California